

BARCLAY DAMON LLP

Brian E. Whiteley
Partner

June 13, 2019

The Honorable Colleen McMahon
Chief Judge, United States District Court
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Beacon Associates LLCI, et al. v. Beacon Associates Management Corp.
Civil Case No: 14-cv-2294 (AJP)

Dear Judge McMahon:

I represent the Income Plus Investment Fund (Income Plus) with respect to the above-referenced matter and submit this letter along with Max Folkenflik, counsel to David Fastenberg, Trustee, Long Island Vitreo-Retinal Consultants 401k FBO David Fastenberg (“Fastenberg”).

As counsel to Income Plus and Fastenberg, we are notifying the Court of the need to resolve an issue with respect to the above-referenced matter, previously assigned to Magistrate Judge Peck, who is now retired. Although administratively closed, the Court retained jurisdiction pursuant to the attached Final Distribution Order and Judgment (“Order and Judgment”). In particular, the Order and Judgment provided as follows:

IT IS FURTHER ORDERED THAT this Court shall retain jurisdiction over any issues that arise with respect to the distribution of funds pursuant to this Order, the final liquidation of the Funds and any potential adjustments made to any individual investor with such investor having the right to challenge any such adjustment after being advised of the proposed adjustment by the Funds or the Fund seeking a further Order from the Court’s with respect to any such proposed adjustment upon notice to the investor[.]

The Funds, as defined in the Order and Judgment, are continuing to make distributions to investors, including distributions made in March and December 2016, March 2017, and May 2018. Further distributions are anticipated.

The issue requiring judicial attention is a claim that Income Plus and Fastenberg have made for reimbursement of legal fees and costs from a common fund obtained by Income Plus and Fastenberg for the benefit of all investors in Beacon, except those who were adverse to the issue raised by Income Plus and Fastenberg. Mr. Folkenflik and I have discussed the common fund issue with counsel for the Funds, Arthur Jakoby. As with other issues that have arisen during the course of the Fund’s liquidation, the parties would like to request an initial conference

The Honorable Colleen McMahon
June 13, 2019
Page 2

with Your Honor or, should the Court prefer, with a magistrate judge assigned by Your Honor, to address these issues.

Very truly yours,

Brian E. Whiteley

cc: Arthur Jakoby, Esq.
Max Folkenflik, Esq.

BEW:wth
Enclosure